

STATEMENT OF PURPOSE

RS20197C1

Idaho's existing law on transfers of conservatorships/guardianships into or out of the State, and on temporary recognition of foreign conservatorships/guardianships, contained in Title Fifteen, Chapters 9, 10, and 11, was based on a model National Probate Judge's act, which was modified by TEPI to fit the Uniform Probate Code. At the time, there was a feeling that the act would be widely adopted and therefore the procedures in the act, which are largely dependent on having similar laws in the two involved States, would be effective. However, the act was adopted in only a few States, and therefore the procedures have not been very useful. As a result, it is currently difficult to transfer such a case into or out of Idaho, or to temporarily recognize such a case in Idaho.

The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) deals only with jurisdiction and related issues in adult proceedings. The Act has been adopted in over twenty States, including almost all our surrounding States (Washington, Oregon, Nevada, Utah, Colorado, Montana, Arizona), with more States starting consideration. It is likely that the Act will be adopted in the great majority of States, and perhaps in all States. The Conference of State Court Administrators has recently issued a White paper on Guardianships and Conservatorships in which adoption of the Act is one of the key suggestions. The Act is also widely supported by a number of national organizations, such as the Alzheimer Association, the American Bar Association, the National Guardianship Association, and the National Academy of Elder Law Attorneys. The Act provides clear procedures to resolve interstate jurisdiction controversies. It also addresses emergency situations and other special cases. Contested cases in which courts in more than one state have jurisdiction are becoming more frequent. Sometimes these cases arise because the adult is physically located in a state other than the adult's domicile, or because of uncertainty as to the adult's domicile, particularly if the adult owns a second home in another state. The Act provides clear solutions to those problems.

Additionally, even absent a dispute, the Act facilitates transfers of existing guardianships or conservatorships between states in a streamlined way. It also allows temporary recognition of guardianships or conservatorships when the adult is in a different State for a limited period of time.

In summary, the Act will allow clear procedures that will work across State lines with any other State that has the Act or similar law. The great majority of the situations in Idaho which would be covered in the Act involve neighboring States who have adopted this Act. Therefore, the Act will considerably streamline transferring cases and will save the involved parties money and time, streamline court time, and better protect the person for whom the guardianship or conservatorship was done.

FISCAL NOTE

This bill will have no negative fiscal impact. It may have a positive fiscal impact by reducing court involvement in guardianship and conservatorship cases.

Contact:

Name: Robert L. Aldridge

Office: Trust & Estate Professionals, Inc.

Phone: (208) 336-9880